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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

Arizona Corporation Commission

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COMMISSIONERS

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MAY 14 2003

AZ CORP COMMISSION
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TROY & TRACY DENTON,

DOCKET NO. T-01051B-02-0535

vs.

QWEST CORPORATION.

APRIL & BRYANT PETERS,

DOCKET NO. T-01051B-02-0519

vs.

QWEST CORPORATION.

JOHN J. AND PATRICIA J. MARTIN,

DOCKET NO. T-01051B-02-0518

vs.

QWEST CORPORATION.

SUSAN BERNSTEIN,

DOCKET NO. T-01051B-02-0517

vs.

QWEST CORPORATION.

TOMMY L. WHITE

DOCKET NO. T-01051B-02-0516

vs.

QWEST CORPORATION

SANDRA RODR,

DOCKET NO. T-01051B-02-0515

vs.

QWEST CORPORATION.

KIRK & BOBBI LIMBURG,

DOCKET NO. T-01051B-02-0514

vs.

QWEST CORPORATION.

ARNOLD & TAMARA FATHEREE,

DOCKET NO. T-01051B-02-0513

vs.

QWEST CORPORATION.

ERNIE & SHERRY THOMPSON,

DOCKET NO. T-01051B-02-0512

vs.

QWEST CORPORATION.

PROCEDURAL ORDER

1 **BY THE COMMISSION:**

2
3 On July 9, and July 11, 2002, Troy and Tracy Denton, April and Bryant Peters, John H. and
4 Patricia J. Martin, Susan Bernstein, Tommy L. White, Sandra Rodr, Kirk and Bobbi Limburg, Arnold
5 and Tamara Fatheree, and Ernie and Sherry Thompson (hereinafter "Complainants") filed various
6 Complaints against Qwest Corporation ("Qwest") that basically stated the Complainants wished to
7 receive phone service. Qwest has refused to provide telephone service to the Complainants based on
8 Qwest's claims that the Complainants are not located within Qwest's service territory.¹

9 On January 22, 2003, Qwest filed a Motion to Stay the Proceedings ("Motion to Stay") until
10 the resolution of an application of Midvale Telephone Exchange, Inc. ("Midvale") to serve the
11 Complainants' area.

12 On January 30, 2003, the Arizona Corporation Commission ("Commission") issued a
13 Procedural Order that, among other things, ordered the Complainants and the Utilities Division Staff
14 ("Staff") to file a response to Qwest's Motion on or before February 10, 2003.

15 On February 10, 2003, Staff filed a response to Qwest's Motion to Stay Further Proceedings.
16 In its response, Staff did not object to Qwest's Motion to Stay this matter until a final resolution is
17 rendered in Midvale's application. However, Staff requested that a procedural conference be held in
18 order to discuss the ramifications of the Motion with all parties.

19 On February 20, 2003, the Commission issued a Procedural Order that set this matter for a
20 procedural conference on March 3, 2003.

21 On March 3, 2003, the procedural conference was held as scheduled. Staff and Qwest
22 appeared and were represented by counsel. Sherry Thompson, Tracy Denton and Tommy White,
23 appeared, but were not represented by counsel. Mrs. Denton appeared telephonically. At the
24 procedural conference, Qwest's Motion to Stay and its impact was explained to the Complainants.
25 During the procedural conference, some questions could not be answered by either Staff or Qwest
26 about Midvale's application. Therefore, the matter was reset for an additional procedural conference.

27 On March 25, 2003, the Commission issued a Procedural Order that set this matter for a

28 ¹ All the Complaints were consolidated into one case.

1 procedural conference and ordered a representative from Midvale to be present in order to
2 supplement the information provided by Staff and Qwest.

3 On April 4, 2003, Midvale docketed a letter in this matter that stated that although Midvale is
4 willing to participate in the pre-hearing conference, it had filed information in Docket No. T-02532A-
5 03-0017 that should respond to the questions raised in this docket.²

6 On April 21, 2003, the procedural conference was held as scheduled. Staff and Qwest were
7 present and were represented by counsel. Mr. and Mrs. Thompson appeared without the assistance of
8 counsel. Mr. White appeared telephonically also without the assistance of counsel.

9 During the hearing, Staff informed the Commission about the information that Midvale had
10 filed in Docket No. T-02532A-03-0017. Staff stated that it would take approximately two years
11 before Midvale would be in a position to serve customers in the area where the Complainants reside.
12 Based upon that information, Staff took no position regarding Qwest's Motion to Stay. Both the
13 Thompsons and Mr. White indicated that they felt two years was too long and objected to Qwest's
14 Motion to Stay. Qwest argued that the Motion should be granted. At the conclusion of the
15 procedural conference, Qwest's Motion to Stay was taken under advisement.

16 Based upon the filings and the arguments made regarding Qwest's Motion to Stay, the Motion
17 is denied and a hearing should be set in this matter.

18 IT IS THEREFORE ORDERED that a hearing shall take place on June 17, 2003 at 9:00 a.m.
19 at the Commission's offices at 1200 West Washington Street, Phoenix, Arizona.

20 IT IS FURTHER ORDERED that Staff shall prepare a Staff Report on or before June 9, 2003.
21 The Staff Report should, at a minimum, address the following issues that could arise should the
22 Commission eventually rule in favor of the Complainant(s) in this matter: the amount of money each
23 individual Complainant would have to pay Qwest, in addition to Qwest's monthly fees, in order to
24 establish a connection to Qwest's system, i.e., a line extension charge; the amount of money each
25 individual Complainant would have to pay Midvale, in addition to Midvale's monthly fees, in order
26 to establish a connection to Midvale's system, i.e., a line extension charge; the impact on Midvale's

27

28 ² Midvale subsequently called the Hearing Division and was told it did not have to appear.

1 CC&N application if the Commission orders Qwest to serve these Complainants; and a comparison
2 between Midvale and Qwest regarding each Company's services and their associated costs as it
3 pertains to each Complainant.

4 IT IS FURTHER ORDERED that Midvale shall appear at the hearing and is joined to this
5 matter as a necessary party.

6 IT IS FURTHER ORDERED that if a Complainant fails to appear for the June 17, 2003
7 hearing date, then at a minimum, his/her Complaint against Qwest will be dismissed without
8 prejudice, and there is a possibility that their complaint would be dismissed with prejudice.³

9 IT IS FURTHER ORDERED that the Ex Parte Rule is still in effect.

10 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend or waive
11 any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

12 Dated this 14 day of May, 2003.



PHILIP J. DION III
ADMINISTRATIVE LAW JUDGE

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16 Copies of the foregoing mailed/delivered
this 14 day of May, 2003 to:

17 Conley E. Ward
18 Cynthia A. Melillo
19 GIVENS PURSLEY
20 277 North 6th Street, Ste. 200
21 P.O. Box 2720
22 Boise, ID

23 Joe F. Tarver
24 2960 N. Swan Road, Ste. 300
25 Tucson, AZ 85712-1292

26 Midvale Telephone Exchange, Inc.
27 P.O. Box 7
28 Midvale, ID 83645

Troy and Tracy Denton
P.O. Box 26343
Prescott Valley, AZ 86312

April and Bryant Peters
P.O. Box 27302
Prescott Valley, AZ 86312

John J. and Patricia J. Martin
P.O. Box 25428
Prescott Valley, AZ 86312

Susan Bernstein
7835 East Memory Lane
Prescott Valley, AZ 86312

Tommy L. White
P.O. Box 27951
Prescott Valley, AZ 86312

³ The term "dismissal without prejudice" means that a complaint against a party would be dismissed, however, the same complaint could be re-filed with the Commission at a later date and the Commission would address those issues at that time. The term "dismissal with prejudice" means that the complaint would be dismissed and those issues could never be brought up before the Commission again.

1 Sandra Rodr
2 P.O. Box 25996
3 Prescott Valley, AZ 86312

4 Kirk and Bobbi Limburg
5 P.O. Box 27683
6 Prescott Valley, AZ 86312

7 Arnold and Tamara Fatheree
8 P.O. Box 26268
9 Prescott Valley, AZ 86312

10 Ernie and Sherry Thompson
11 P.O. Box 27016
12 Prescott Valley, AZ 86312

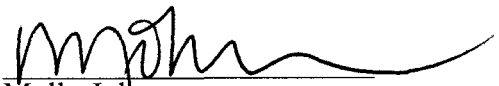
13 Timothy Berg
14 Darcy Renfro
15 3003 N. Central Avenue, Ste. 2600
16 Phoenix, AZ 85012
17 Attorneys for Qwest Corporation
18
19
20
21
22
23
24
25
26
27
28

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1275 West Washington
Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.
2627 N. Third Street, Suite Three
Phoenix, Arizona 85004-1003

By:


Molly Johnson
Secretary to Philip J. Dion III